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BEFORE THE ARIZONA CORPORATION CC

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

MAR 20 2008

MIKE GLEASON, Chairman
 WILLIAM A. MUNDELL
 JEFF HATCH-MILLER
 KRISTIN K. MAYES
 GARY PIERCE

DOCKETED BY

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IN THE MATTER OF THE COMMISSION ON ITS
 OWN MOTION INVESTIGATING THE FAILURE
 OF NUMEROUS UTILITIES TO FILE ANNUAL
 REPORTS FOR CALENDAR YEAR 2005.

DOCKET NO. C-00000A-07-0430

DECISION NO. 70199

OPINION AND ORDER

DATE OF PRE-HEARING:

November, 19, 2007

DATE OF HEARING:

February 14, 2008

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Mr. Kevin Torrey, Staff Attorney, Legal Division, on
 behalf of the Utilities Division of the Arizona
 Corporation Commission.

BY THE COMMISSION:

On August 28, 2007, the Arizona Corporation Commission ("Commission") issued Decision No. 69887, a Complaint and Order to Show Cause ("Complaint" or "OSC") against the following named Respondents for failing to file their 2005 Utilities Division Annual Reports ("Annual Reports"):

DOCKET NO.COMPANY

T-03092A	COMMONWEALTH LONG DISTANCE CO. dba CLD
T-03497A	CONNECTAMERICA, INC. dba CONNECT US OF DELAWARE
T-03961A	EARLAND E CASS
T-03920A	EN-TOUCH SYSTEMS, INC.
T-04165A	EXERGY GROUP, LLC
T-03416A	GERLACH ENTERPRISES, INC. dba GCI
T-04105A	GLOBAL INTERNETWORKING, INC.
W-02271A	GREEN ACRES WATER COMPANY
T-03068A	HEATH COMMUNICATIONS, INC.
T-03174A	LIGHTYEAR COMMUNICATIONS, INC.
T-03853A	MAXCESS, INC.

1	W-02164A	MORRISTOWN WATER COMPANY
2	T-04001A	MULTA COMMUNICATIONS, CORP dba MULTACOM
3	T-03505A	NIKEA COMMUNICATION, LLC
4	T-03989A	NTC NETWORK, LLC
5	W-04069A	OATMAN WATER COMPANY, LLC
6	T-04005A	QUICK TEL, INC.
7	W-01407A	STRAWBERRY WATER COMPANY
8	T-04000A	TELSEON CARRIER SERVICES, INC.
9	T-04070A	TOLL CALL, INC.
10	T-03439A	UNITED SERVICES TELEPHONE, LLC
11	T-03998A	VISTA VOICE & DATA, INC.
12	T-03820A	W2COM INTERNATIONAL, LLC.
13	W-01084A	WILLIAM P. FARR dba SALOME WATER CO. ¹

14 Therein, the Commission ordered a hearing to be conducted at a date and time set by the
15 Hearing Division.

16 On September 7, 2007, by Procedural Order, a pre-hearing conference was scheduled on the
17 Complaint against the above-named Respondents. The Commission's Utilities Division ("Staff")
18 was ordered to file a Memorandum by November 12, 2007 to indicate which, if any, Respondents
19 filed their 2005 Annual Reports so they could be dismissed from the proceeding.

20 On November 8, 2007, Staff filed its Memorandum indicating that as of that date three
21 utilities, Green Acres Water Company ("GAW"), Oatman Water Company, L.L.C. ("OWC"), and
22 Strawberry Water Company ("SWC"), had filed their 2005 Annual Reports and requested that they
23 be dismissed from the proceeding. Staff further indicated that three other utilities, Earland E. Cass
24 ("Cass"), Global Internetworking, Inc. ("GII") and Nickea Communication, L.L.C. had filed
25 applications to cancel their Certificate(s) of Convenience and Necessity ("Certificate"), and requested
26 that they also be dismissed from the proceeding.

27 On November 19, 2007, a pre-hearing conference was held at the Commission's offices in
28 Phoenix, Arizona. Staff appeared with counsel. No appearances were entered by any of the
29 Respondents.

30 On November 26 and December 19, 2007, by Procedural Order as amended, a hearing was

¹ This Respondent's name appears in error since his Certificate of Convenience and Necessity ("Certificate") was revoked in Decision No. 64395 (January 31, 2002) for failing to file the 1999 Annual Report.

1 scheduled on February 14, 2008. Respondents GAWC, OWC and SWC were dismissed from the
 2 proceeding after filing their 2005 Annual Reports. Respondents Cass, GII and Nickea NCL were
 3 dismissed from the proceeding because they had filed applications to cancel their Certificate(s).

4 On February 14, 2008, a full public hearing was held by the Commission at its offices in
 5 Phoenix, Arizona before a duly authorized Administrative Law Judge of the Commission. Staff
 6 appeared with counsel. No other Respondents named in the proceeding appeared. At the conclusion
 7 of the hearing, the matter was taken under advisement pending submission of a Recommended
 8 Opinion and Order to the Commission.

9 * * * * *

10 Having considered the entire record herein and being fully advised in the premises, the
 11 Commission finds, concludes, and orders that:

12 FINDINGS OF FACT

13 1. Pursuant to authority granted by the Commission, the above-described Respondents
 14 were authorized to conduct business at various times in Arizona as public utilities.

15 2. On August 28, 2007, the Commission issued Decision No. 69887, a Complaint against
 16 the Respondents described above due to their failure to file their 2005 Annual Reports.

17 3. Notice of the proceeding was given in the manner prescribed by law.

18 4. On November 8, 2007, Staff filed its Memorandum in which Staff's Chief of
 19 Compliance, Ms. Kim Batista, recommended that GAW, OWC and SWC should be dismissed from
 20 the proceeding because they had filed their 2005 Annual Reports. Ms. Batista further recommended
 21 that Cass, GII and NCL be dismissed because they had filed applications to cancel their Certificates.
 22 Ms. Batista testified during the hearing that Cass', GII's and NCL's Certificates will be cancelled in
 23 subsequent proceedings.

24 5. On December 19, 2007, by Amended Procedural Order, GAW, OWC, SWC, Cass, GII
 25 and NCL were dismissed from this proceeding.

26 6. Commission records reveal that of the above-named Respondents, Salome Water
 27 Company ("Salome") had its Certificate revoked by the Commission in Decision No. 64395.
 28

1 However, Staff has confirmed that Salome is still providing public water service.

2 7. Staff has also confirmed that another Respondent, Morristown Water Company
3 ("Morristown"), is still providing public water service.

4 8. On February 21, 2008, Staff filed another Memorandum in the proceeding in which it
5 indicates that, according to the Arizona Department of Environmental Quality ("ADEQ"), both
6 Salome and Morristown are providing water which meets the requirements of the Safe Drinking
7 Water Act and water which is below the maximum contaminant level for arsenic. Additionally, Staff
8 contacted the respective county agencies and verified that both companies are current in their
9 property tax payments.

10 9. A number of the Procedural Orders which contained the notice of the proceeding's
11 pre-hearing conference and the hearing that were mailed to the Respondents' last known address
12 were returned to the Commission with notations such as "return to sender, no forwarding order on
13 file", "moved, left no address, unable to forward", and "forwarding order expired".

14 10. Ms. Batista testified that the Complaint had been filed against the Respondents
15 because the various utility companies and/or entities that are described above had failed to file their
16 2005 Annual Reports.

17 11. Ms. Batista indicated that the Commission sent out delinquent notices to all of the
18 above-referenced utilities and/or entities to advise them that they had failed to file their 2005 Annual
19 Reports. Following the mailing of the delinquent notices, personal phone calls to each of the utilities
20 along with follow-up phone calls were made in an attempt to secure compliance with the requirement
21 that the utilities file their 2005 Annual Reports. Staff has been unable to contact the 16 remaining
22 telecommunications utilities and believes they are out of business.

23 12. Staff is recommending that the Certificates of the Respondents which have either
24 failed to file their 2005 Annual Reports and/or failed to advise the Commission of their proper
25 mailing addresses be revoked and the utility and/or entity be penalized.

26 13. Based upon our review of the record, we believe that Staff's recommendations should
27 be adopted with respect to the above-described Respondents, the Certificates of the Respondents
28 should be revoked and they should also be assessed financial penalties. However, if any affected

Respondent files, within 60 days of the effective date of this Decision, its 2005 Annual Report, then upon Staff's filing a notice of compliance, the Order of revocation and penalty as to that utility and/or entity should be rendered null and void without further Order by the Commission.

CONCLUSIONS OF LAW

1. The above-referenced Respondents are public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

2. The Commission has jurisdiction over the Respondents and of the subject matter of the Complaint herein.

3. The revocation of the Certificates of the remaining Respondents as described above would benefit the public interest.

4. Pursuant to A.R.S. § 40-425, the remaining Respondents should also each be penalized the sum of \$200 unless, within 60 days of the effective date of this Decision, the remaining Respondent files its 2005 Annual Report.

ORDER

IT IS THEREFORE ORDERED that the Certificates of Convenience and Necessity of the remaining Respondents and the authorizations therein be revoked as follows:

<u>DOCKET NO.</u>	<u>COMPANY</u>
T-03092A	COMMONWEALTH LONG DISTANCE CO. dba CLD
T-03497A	CONNECTAMERICA, INC. dba CONNECT US OF DELAWARE
T-03920A	EN-TOUCH SYSTEMS, INC.
T-04165A	EXERGY GROUP, LLC
T-03416A	GERLACH ENTERPRISES, INC. dba GCI
T-03068A	HEATH COMMUNICATIONS, INC.
T-03174A	LIGHTYEAR COMMUNICATIONS, INC.
T-03853A	MAXCESS, INC.
W-02164A	MORRISTOWN WATER COMPANY
T-04001A	MULTA COMMUNICATIONS, CORP dba MULTACOM
T-03989A	NTC NETWORK, LLC
T-04005A	QUICK TEL, INC.
T-04000A	TELSEON CARRIER SERVICES, INC.
T-04070A	TOLL CALL, INC.
T-03439A	UNITED SERVICES TELEPHONE, LLC

1 T-03998A VISTA VOICE & DATA, INC.
 2 T-03820A W2COM INTERNATIONAL, LLC.

3 IT IS FURTHER ORDERED that the above-named Respondents shall each be penalized the
 4 sum of \$200 unless, within 60 days of the effective date of this Decision, the above-named
 5 Respondent files its 2005 Utilities Division Annual Report with the Director of the Commission's
 6 Utilities Division, then upon the Staff's filing a notice of compliance, said revocation and financial
 7 penalty shall be null and void without further Order by the Commission.

8 IT IS FURTHER ORDERED that William P. Farr dba Salome Water Company shall be
 9 penalized the sum of \$200 for failure to file its 2005 Annual Report and for its continual disregard of
 10 Commission Rules, Orders and Statues.

11 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

12 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

13
 14 *Lawrence S. Gleason*
 15 CHAIRMAN

William P. Farr

COMMISSIONER

16
 17 COMMISSIONER

Robert J. Miller

COMMISSIONER

Gary A. Stein
 COMMISSIONER

18
 19 IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim
 20 Executive Director of the Arizona Corporation Commission,
 21 have hereunto set my hand and caused the official seal of the
 22 Commission to be affixed at the Capitol, in the City of Phoenix,
 23 this 20th day of March, 2008.

24
 25 *Dean S. Miller*
 26 DEAN S. MILLER
 27 INTERIM EXECUTIVE DIRECTOR

28 DISSENT _____

DISSENT _____

MES: db

1 SERVICE LIST FOR: 2005 ANNUAL REPORTS

2 DOCKET NO.: C-00000A-07-0430

3 T-03092A
4 COMMONWEALTH LONG DISTANCE CO.
5 dba CLD
105 Carnegie Center
Princeton, NJ 08540

6 T-03497A
7 CONNECTAMERICA, INC.
8 dba CONNECT US OF DELAWARE
1842 Centre Point Drive, Suite 128
Naperville, IL 60563

9 T-03068A
10 HEATH COMMUNICATIONS, INC.
11 COMMUNITY PAYPHONES
P.O. Box 86143
Tucson, AZ 85754

12 T-03174A
13 LIGHTYEAR COMMUNICATIONS, INC.
1901 Eastpoint Parkway
14 Louisville, KY 40223

15 W-02164A
16 MORRISTOWN WATER COMPANY
P.O. Box 156
Morristown, AZ 85342

17 T-03989A
18 NTC NETWORK, LLC
633 West 5th Street, 56th Floor
19 Los Angeles, CA 90071

20 T-04005A
21 QUICK TEL, INC.
324 Trinity Place
Elizabeth, NJ 07201

22 Christopher Kempley, Chief Counsel
23 Legal Division
24 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
25 Phoenix, AZ 85007

26 Ernest G. Johnson, Director
27 Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
28 Phoenix, AZ 85007